

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09-CR-00177-F-2

| | | |
|--------------------------|---|--------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | <u>ORDER</u> |
| |) | |
| TERRELL CAVINESS, |) | |
| Defendant. |) | |

This matter is before the court on Terrell Caviness' letter motion [DE-110] seeking a reduction in his sentence pursuant to *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011) (en banc).

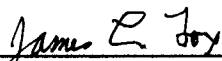
Caviness is attacking the validity of his sentence, and the appropriate avenue to bring this challenge is by way of a § 2255 motion¹. To the extent that Caviness seeks to file a § 2255 motion, he must file it on the appropriate form. The Clerk of Court hereby is DIRECTED to send a copy of the appropriate § 2255 form to Caviness. If Caviness elects to pursue a § 2255 motion, he shall have twenty-eight days within which to file his motion on the appropriate § 2255 form provided by the Clerk. Caviness should send the original of the § 2255 form to:

Clerk of Court
United States District Court, E.D.N.C.
ATTN: Prisoner Litigation Division
P.O. Box 25670
Raleigh, North Carolina 27611

¹Title 28 Section 2255 states four grounds upon which such relief may be claimed: (1) that the sentence was imposed in violation of the Constitution or laws of the United States; (2) that the court was without jurisdiction to impose such sentence; (3) that the sentence was in excess of the maximum authorized by law; and (4) that the sentence is otherwise subject to collateral attack. 28 U.S.C. § 2255(a).

SO ORDERED.

This 16th day of April 2013.



JAMES C. FOX
SENIOR UNITED STATES DISTRICT JUDGE